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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/418,083	10/14/1999	ANTHONY NARISI	TN099	8378

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BLUE BELL, PA 19424

EXAMINER

CALDWELL, ANDREW T

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 08/27/2003

2

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/418,083

Applicant(s)

NARISI ET AL.

Examiner

Andrew Caldwell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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**Remarks**

Claims 1-16 are pending.

At page 6, the specification incorporates by reference various non-patent publications. The Applicants have failed to provide copies of these references, and they have not been considered.

The Applicants refer to various related applications at various points in the specification: p. 7 line 29, p. 10 lines 11 and 26; p. 19 line 8; p. 25 line 30. There may be other references that the Examiner missed when reviewing the specification. The Applicants are requested to amend the specification to update the status of these related applications.

No copies of the references cited on the Form 892 accompanying this Office action have been mailed. Copies of the references were mailed along with the Office action in application 09/410,543. Since the Office actions were mailed at the same time, mailing additional copies seems unnecessary.

**Priority**

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification. The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part)

1 between the applications except when the reference is to a prior application of a  
2 CPA assigned the same application number.

3  
4 ***Drawings***

5 The drawings are objected to under 37 CFR 1.83(a). The drawings must show  
6 every feature of the invention specified in the claims. Therefore, the following must be  
7 shown or the feature(s) canceled from the claim(s): (a) the subject matter of the last 7  
8 lines of claim 1 and the corresponding subject matter in method claim 15; (b) the  
9 filtering device of claim 13 and the corresponding subject matter in method claim 16.  
10 No new matter should be entered.

11 A proposed drawing correction or corrected drawings are required in reply to the  
12 Office action to avoid abandonment of the application. The objection to the drawings  
13 will not be held in abeyance.

14  
15 ***Specification***

16 The specification is objected to under 37 CFR 1.74 because the detailed  
17 description does not contain references to Figures 21-23. Appropriate correction is  
18 required.

19  
20 ***Claim Rejections - 35 USC § 103***

21 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all  
22 obviousness rejections set forth in this Office action:

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1 (a) A patent may not be obtained though the invention is not identically disclosed or described as set  
2 forth in section 102 of this title, if the differences between the subject matter sought to be patented and  
3 the prior art are such that the subject matter as a whole would have been obvious at the time the  
4 invention was made to a person having ordinary skill in the art to which said subject matter pertains.  
5 Patentability shall not be negated by the manner in which the invention was made.  
6

7 This application currently names joint inventors. In considering patentability of  
8 the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of  
9 the various claims was commonly owned at the time any inventions covered therein  
10 were made absent any evidence to the contrary. Applicant is advised of the obligation  
11 under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was  
12 not commonly owned at the time a later invention was made in order for the examiner to  
13 consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)  
14 prior art under 35 U.S.C. 103(a).  
15

16 Claims 1-12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by  
17 Szwerinski et al., U.S. Patent No. 5,517,668. Please note that columns 47-1684 are not  
18 being provided to the Applicants because the over 800 pages merely contain program  
19 code that is not used in the rejection. However, if the Applicants want access to the  
20 program code, it is available on the USPTO web site.  
21

22 Regarding claim 1, Szwerinski teaches the invention substantially as claimed by  
23 disclosing an apparatus comprising:

24 An interconnection coupling an input/output subsystem of the first  
25 computer to an I/O system of the second computer system and over which data  
26 can be transmitted between the first and second computer systems independent

1 of a network interface card (Fig. 3 and col. 3 lines 11-13 channel as  
2 interconnection coupling; Fig. 3 and col. 12 lines 1-4 with Szwerinski's application  
3 processor as the second computer system and Szwerinski's dedicated I/O  
4 processor as the first processor);

5 An interconnection messaging system executing on the first and second  
6 computer systems that provides general purpose transport interfaces between  
7 said first and second computer systems (Fig. 3 and col. 12 lines 12-28 DSF as  
8 interconnection messaging system);

9 A distributed transport communications manager executing on the first  
10 (Fig. 3 remote driver) and second computer systems (Fig. 3 proxy driver), said  
11 distributed communications manager controlling use of said interconnection  
12 messaging system to establish a dialog through with the transport protocol of the  
13 first computer system may be used by an application executing on the second  
14 computer system in a manner which is transparent to said application (col. 5 lines  
15 6-19; col. 3 lines 39-45 and 50-55).

16 Szwerinski does not explicitly teach a system wherein said application utilizes  
17 transport protocols executing on a plurality of networked computer systems being  
18 directly interconnected and closely coupled to said second computer system and using  
19 said interconnection messaging system to establish dialogs through which the transport  
20 protocols of the networked computer systems may be used by said application in a  
21 manner which is transparent to said application.

1 Szwerinski does however teach a system including multiple I/O processors for  
2 implementing a distributed protocol stack (col. 2 line 62 to col. 3 line 27).

3 It would have been obvious to one of ordinary skill in the art at the time the  
4 invention was made to modify the system of Szwerinski to have the application on the  
5 second computer access multiple protocol stacks operating on different I/O processors  
6 based on Szwerinski's teaching that the system supports multiple I/O processors (col. 2  
7 line 62 to col. 3 line 27).

8 Regarding claim 2, Szwerinski teaches a system wherein the interconnection  
9 between the I/O subsystem of the first computer system and the I/O subsystem of the  
10 second computer system comprises a physical connection between the I/O subsystems  
11 over which data can be transmitted (col. 3 lines 11-13).

12 Regarding claim 3, Szwerinski teaches a system wherein the interconnection  
13 messaging system includes a messaging subsystem which provides said general  
14 purpose transport interfaces, said general purpose transport interfaces being  
15 independent of communications protocols of the interconnection, and which provides  
16 further interfaces on either end of the interconnection which are dependent on the  
17 communications protocols of the interconnection, whereby only the further interfaces  
18 must be changed when the interconnection is changed (col. 13 line 65 to col. 14 line 42  
19 media drivers independent of DSF drivers).

20 Regarding claim 4, Szwerinski teaches a system wherein the MSS includes an  
21 MSS component on each of the first and second computer systems (Fig. 3 DSF), each  
22 MSS component having at least one local MSS user (Fig. 3 remote and proxy drivers)

1 connected thereto through said independent transport interface, and MSS component  
2 on the first computer system creating a dialog to each complementary remote MSS user  
3 of the second computer system (col. 5 lines 6-19; col. 3 lines 39-45 and 50-55).

4 Regarding claims 5-11, they are directed to the various dialog/connection  
5 management features discussed in Szwerinski cols. 13-46.

6 Regarding claim 12, Szwerinski teaches a system wherein said transport protocol  
7 executing on said first computer system is utilized by a plurality of networked computer  
8 systems including said second computer system, each of said plurality of computer  
9 systems being directly interconnected and closely coupled to said first computer system  
10 and using said interconnection messaging system to establish dialogs through which  
11 the transport protocol of the first computer system may be used by applications  
12 executing on the networked computer systems in a manner which is transparent to said  
13 applications (Fig. 2 and col. 4 lines 30-47).

14 Regarding claim 15, it is a method claim directed to the use of the apparatus  
15 defined in claim 3. Since it does not teach or define above the information in the  
16 corresponding apparatus claim, it is rejected under the same basis.

17  
18 Claims 1-16 are rejected under 35 U.S.C. 103(a) as being obvious over Narisi et  
19 al., U.S. Patent No. 6,233,619.

20  
21 The applied reference has a common inventor(s) and assignee with the instant  
22 application. Based upon the earlier effective U.S. filing date of the reference, it

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1 constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a)  
2 might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed  
3 but not claimed in the reference was derived from the inventor of this application and is  
4 thus not an invention "by another"; (2) a showing of a date of invention for the claimed  
5 subject matter of the application which corresponds to subject matter disclosed but not  
6 claimed in the reference, prior to the effective U.S. filing date of the reference under 37  
7 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application  
8 and reference are currently owned by the same party and that the inventor named in the  
9 application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer  
10 in accordance with 37 CFR 1.321(c). For applications filed on or after November 29,  
11 1999, this rejection might also be overcome by showing that the subject matter of the  
12 reference and the claimed invention were, at the time the invention was made, owned  
13 by the same person or subject to an obligation of assignment to the same person. See  
14 MPEP § 706.02(I)(1) and § 706.02(I)(2).

15  
16 Regarding claim 1, Narisi teaches the invention substantially as claimed by  
17 disclosing an interconnect and an interconnect messaging system. Narisi does not  
18 explicitly teach the third limitation of claim 1.

19 Narisi does however teach a system for using a direct interconnection to allow an  
20 A series enterprise server/second system to use a shared network interface card  
21 installed on an NT server/first system (col. 5 lines 23-34).

1           It would have been obvious to one of ordinary skill in the art at the time the  
2 invention was made to combine Narisi's teaching regarding shared network interface  
3 cards with system of Narisi by having the A series system establish a dialog with the  
4 transport stack of the NT server using the MSS, thus teaching the invention as claimed.  
5 This combination would have been obvious based on Narisi's teaching that doing so  
6 would reduce development costs (col. 5 lines 19-22).

7           Narisi does not explicitly teach a system wherein said application utilizes  
8 transport protocols executing on a plurality of networked computer systems being  
9 directly interconnected and closely coupled to said second computer system and using  
10 said interconnection messaging system to establish dialogs through which the transport  
11 protocols of the networked computer systems may be used by said application in a  
12 manner which is transparent to said application.

13           Narisi does however teach a system wherein the A series/second server has  
14 multiple IP addresses, which implies that it communicates with multiple remote protocol  
15 stacks (col. 12 lines 61-65).

16           It would have been obvious to one of ordinary skill in the art at the time the  
17 invention was made to modify the system of Narisi to have the application on the A  
18 series/second computer access multiple protocol stacks operating on different NT  
19 servers/second computers because spreading the multiple protocol stacks operating on  
20 a single NT server over multiple NT servers would increase system performance.

21           As to claims 3-14, the reasons for rejection should be obvious based on the  
22 similarity between the claims of this application and Narisi.

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As to claims 15-17, they are method claims corresponding to apparatus claims 3 and 13-14, respectively. Since they do not teach or define above the information in the corresponding apparatus claims, they are rejected under the same basis.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of copending Application No. 09/310,543 in view of Narisi et al., U.S. Patent No. 6,233,619.

This is a provisional obviousness-type double patenting rejection.

Regarding claim 1, claim 11 of the '543 application teaches the invention substantially as claimed except for the limitation of the last seven lines of claim 1. Claim 11 of the '543 application does not explicitly teach a system wherein said application

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1 utilizes transport protocols executing on a plurality of networked computer systems  
2 being directly interconnected and closely coupled to said second computer system and  
3 using said interconnection messaging system to establish dialogs through which the  
4 transport protocols of the networked computer systems may be used by said application  
5 in a manner which is transparent to said application.

6 Narisi does however teach a system wherein the A series/second server has  
7 multiple IP addresses, which implies that it communicates with multiple remote protocol  
8 stacks (col. 12 lines 61-65).

9 It would have been obvious to one of ordinary skill in the art at the time the  
10 invention was made to modify the system of Narisi to have the application on the A  
11 series/second computer access multiple protocol stacks operating on different NT  
12 servers/second computers because spreading the multiple protocol stacks operating on  
13 a single NT server over multiple NT servers would increase system performance.

14 As to claims 3-14, the reasons for rejection should be obvious based on the  
15 similarity between the claims of this application and the claims of the '543 application.

16 As to claims 15-17, they are method claims corresponding to apparatus claims 3  
17 and 13-14, respectively. Since they do not teach or define above the information in the  
18 corresponding apparatus claims, they are rejected under the same basis.

19

### 20 **Conclusion**

21 A shortened statutory period for response to this action is set to expire **three**  
22 **months** from the mail date of this letter. Failure to respond within the period for  
23 response will result in **ABANDONMENT** of the application (see 35 U.S.C. 133, M.P.E.P.  
24 710.02, 710.02(b)).

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1  
2 Any inquiry concerning this communication or earlier communications from the  
3 examiner should be directed to Andrew Caldwell, whose telephone number is (703)  
4 306-3036. The examiner can normally be reached on M-F from 9:00 a.m. to 5:30 p.m.  
5 EST.  
6

7 If attempts to reach the examiner by phone fail, the examiner's supervisor, Ario  
8 Etienne, can be reached at (703) 308-7562. Additionally, the fax numbers for Group  
9 2100 are as follows:

10  
11 Fax Responses: (703) 872-9306  
12

13 Any inquiry of a general nature or relating to the status of this application should  
14 be directed to the Group receptionist at (703) 305-9600.  
15  
16

17   
18  
19

20  
21 Andrew Caldwell  
22 703-306-3036  
23 August 21, 2003  
24  
25